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BEFORE THE ARIZONA CORPORATION COMMISSION

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ARIZONA CORPORATION COMMISSION
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Commissioner

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Commissioner

Arizona Corporation Commission

DOCKETED

APR 28 2003

JEFF HATCH-MILLER
Commissioner



MIKE GLEASON
Commissioner

IN THE MATTER OF INVESTIGATION
INTO QWEST CORPORATION'S
COMPLIANCE WITH CERTAIN
WHOLESALE PRICING REQUIREMENTS
FOR UNBUNDLED NETWORK ELEMENTS
AND RESALE DISCOUNTS

) DOCKET NO T-00000A-00-0194
) PHASE II
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ARIZONA CORPORATION COMMISSION
Complainant

) DOCKET NO. T-01051B-02-0871
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)
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v.

QWEST CORPORATION
Respondent

DIRECT TESTIMONY OF MICHAEL LEE HAZEL

Q.1 Please state your name, position, and business address?

A.1 My name is Michael Lee Hazel. I am Vice President, Network, Mountain
Telecommunications, Inc. My business address is 1430 W. Broadway, Suite A-200, Tempe,
Arizona 85282.

1 **Q.2 How long have you been employed by Mountain Telecommunications, Inc. (MTI)?**

2 **A.2** I have been employed by MTI since its founding in 1997.

3 **Q.3 Please summarize your current responsibilities?**

4 **A.3** As Vice President, Network, I am responsible for management and operation of the MTI
5 network, including the deployment and operation of existing voice and data network switching
6 and transmission facilities. This includes more than 3,000 modems online with Internet service
7 providers. My recent responsibilities have included such projects as the migration from interim
8 number portability to permanent local number portability, the deployment of ten rural
9 collocations, and negotiation of MTI's interconnection agreement with Qwest. My duties
10 include the procurement of interconnection facilities and circuits and the management of MTI's
11 use of Qwest network facilities and services. In addition, I audit and verify the invoices which
12 Qwest renders to MTI for network services and facilities. I also work with MTI management
13 and with outside legal counsel in analyzing regulatory proceedings which affect MTI's interests
14 and in participating in such proceedings, where appropriate.

16 **Q.4 Please describe your prior professional experience and post-secondary education?**

17 **A.4** Attached to this testimony as Attachment 1 is a resume which describes my prior
18 employment and education.

19 **Q.5 Has MTI recently experienced increases in prices charged by Qwest for Transport?**

20 **A.5** Yes. Beginning in January 2003, MTI began receiving invoices from Qwest which
21 contained rates for Transport that were substantially higher than those that had been in effect
22 prior to the Commission's Phase II Decision in Docket No. T-00000A-00-0194 (Decision No.
23 64922, issued June 12, 2002). These significantly increased Transport charges did not seem to be
24 contemplated either by the letter or the spirit of the Phase II Order and were not anticipated by
25 MTI. Based upon recent filings which have been made by other companies (including, for

1 example, Time Warner Telecom and Electric Lightwave), it appears to me that these rate
2 increases were not expected by other competitive local exchange carriers either. After receiving
3 those invoices, MTI filed with the Commission applications to intervene in each of the above-
4 captioned proceedings. In addition, MTI filed a motion for injunction which asked the
5 Commission to enjoin Qwest from charging Transport rates which MTI believes to be unjust and
6 unreasonable. MTI explained in its injunction motion as well as in its application to intervene
7 and supplement to its application to intervene that Qwest's revised and increased Transport rates
8 following implementation of the Phase II Order would increase MTI's costs by approximately
9 \$55,000 per month – an increase of approximately 78 percent. It is important to note that those
10 cost increase figures are based on MTI's current usage. As MTI's business grows and its usage
11 of Qwest services increases, that amount will continue to grow.

12
13 **Q.6 Are you familiar with Staff's Response to the Motions of MTI, Qwest and Time**
14 **Warner, which was filed on March 7, 2003 in these docketed proceedings?**

15 **A.6** Yes. Staff's Response was filed after Staff had conducted its own discovery into the
16 allegations which had been raised in MTI's applications to intervene and motion for injunction.
17 Based upon that discovery, Staff determined that Qwest's combination of Transport and
18 Entrance Facility charges into one rate is "producing an unexpected and unreasonable rate
19 increase . . . which was not intended by the Phase II Order." As Staff noted in its Response,
20 carriers do not always lease Entrance Facilities from Qwest when they acquire Transport
21 services, and Qwest's inclusion of Entrance Facility charges in all Transport rates results in
22 significantly higher charges for those carriers.

23
24 **Q.7 Are you familiar with Staff's recommendations with respect to Transport charges?**
25

1 A.7 Yes. Noting that the resulting Transport charges were not what was contemplated either
2 by the Commission or by the parties, Staff has recommended that the Commission reopen the
3 record in Phase II on its own initiative to review the Transport pricing issue and that it grant
4 relief under either of two options pending further review of Transport pricing in Phase III.

5 **Q.8 Please describe the two options proposed by Staff?**

6 A.8 Under Staff's first option (Option 1), the Commission would reinstate the Entrance
7 Facility Direct Trunked Transport recurring charges which were in effect prior to Qwest's
8 implementation of the Phase II Order. Under Option 1, MTI and other interconnecting carriers
9 would pay only for facilities they actually lease from Qwest rather than be subjected to bundled
10 rates which include Entrance Facility charges, even in situations where no Entrance Facilities are
11 provided. Under the second option (Option 2), the Commission would require Qwest to deduct
12 the prior Entrance Facility recurring rate (*e.g.*, \$89.42 for a DS1 entrance facility) from the new
13 combined rate for those Direct Trunked Transport facilities to which the prior Entrance Facility
14 rate did not apply. I understand that Staff's Options would be applicable to all Transport
15 facilities, including DS1 and DS3 facilities. This is an important point as Qwest's rate increases
16 for DS3 Transport have been even more egregious than those which we have experienced for
17 DS1 Transport. As MTI described in its supplement to its application to intervene and in its
18 motion for injunction, it has received invoices for DS3 facilities in the amount of \$1,834.61 for
19 facilities which were charged at a rate of \$353.05 prior to Qwest's implementation of the Phase
20 II Order. Even backing out the entrance facility charge of \$357.16, the charge for DS3 facilities
21 has skyrocketed to \$1,446.35 following Qwest's "implementation" of the Phase II Order.
22 Nothing which I have been able to find in the Phase II Order contemplates such a dramatic
23 increase in DS3 rates, nor has Qwest offered any explanation.
24
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1 **Q.9 Which of Staff's recommendations should be adopted?**

2 **A.9** Option 1 is the more appropriate solution to the problem occasioned by Qwest's
3 implementation of bundled Transport rates which included Entrance Facility charges. It is the
4 option which should be ordered by the Commission. At the outset, it should be noted that the
5 problems which have resulted from Qwest's implementation of bundled Transport rates which
6 include Entrance Facilities is entirely of Qwest's own making. Nothing in the Phase II Order nor
7 in Qwest's compliance filings made subsequent to that order provide any indication that such
8 massive Transport pricing increases were contemplated by the Commission, by Qwest or by
9 Staff. Indeed, in my capacity as Vice President, Network, MTI, I contacted Qwest in November
10 2002 to inquire how it planned to establish Transport rates. I never received a direct response to
11 my inquiries and did not learn about Qwest's plans for Transport rates until we began receiving
12 invoices in January 2003. Beginning in January 2003, Qwest has rendered invoices to MTI
13 reflecting the increased bundled Transport rates retroactively back to June 12, 2002 – the
14 effective date of the Phase II Order.
15

16 **Q.10 Why is Staff's Option 1 the more appropriate solution to the Transport Pricing**
17 **Problem identified by Staff and by MTI?**

18 **A.10** Option 1 would provide several advantages over Option 2. First, it would be simpler to
19 implement and could be implemented in a more timely manner. There would be no need to
20 separately identify which Transport circuits do not utilize Entrance Facilities and which circuits
21 should include Entrance Facility charges. Since the rate changes implemented by Qwest were not
22 contemplated by the Phase II Order and since certain of the changes involve issues which will be
23 addressed by the Commission in Phase III of this proceeding, the most efficient manner to
24 redress the situation is for the Commission to direct Qwest to reinstitute those rates which were
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1 in effect prior to the Phase II Order. This will protect the interests of all affected parties, will
2 maintain the status quo, and will afford the parties an ample opportunity to conduct the needed
3 discovery and to develop a complete record and will enable the Commission to complete Phase
4 III without being subject to the external pressure of unintended interim rates having a disruptive
5 impact on local competition pending completion of Phase III. There is another reason why
6 Option 1 is preferable. While Staff points out correctly that Qwest's bundling of Entrance
7 Facilities into Transport rates is a cause of excessive and unanticipated rate increases, it is not the
8 only reason for such increases. For example, Qwest has chosen to impose significant rate
9 increases on services which were not intended to be subject to rate increases including, for
10 example, multiplexing. As part of its "implementation" of Decision 64922, Qwest has increased
11 its monthly charges for multiplexing provided to MTI from \$196.85 to \$228.05, *i.e.*, by 14
12 percent. I have reviewed the Commission's Phase II Order and can find nothing in it that Order
13 which contemplates such increases to Qwest's multiplexing rates. Indeed, multiplexing is among
14 the services listed at page 80 of the Phase II Order about which the Commission stated that
15 "sufficient evidence does not exist in the record for purposes of rendering a decision." The
16 Commission also said that it would not be "appropriate to adopt prices for services for which
17 there is not an adequate record." Rates for those services, including multiplexing, were deferred
18 to Phase III. With respect to those services which were deferred to Phase III, the Commission
19 stated at page 81 of the Phase II Order that "the current rates will remain in effect until different
20 rates are established in Phase III." In view of the Commission's clear directive not to change the
21 rates for multiplexing until those issues are resolved in Phase III, I do not understand how or why
22 Qwest chose to increase the multiplexing rates – and to attempt to do so back to June 12, 2002.
23 Also, as described in my answer to Question No. 8, Qwest has imposed dramatic increases in its
24
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1 rates for DS3 facilities and those increases are not completely explained by inclusion of entrance
2 facility charges. Qwest should not be allowed to implement those DS3 rate increases without
3 explanation or justification and without express Commission approval of those increases. Staff
4 Option 1 would have the desirable result of achieving for multiplexing rates, as well as for the
5 Transport rates, precisely what the Commission ordered in the Phase II Order – maintaining the
6 then-current rates in effect until different rates are established in Phase III.

7 **Q.11 Should the revised rates that are determined in this proceeding be effective as of**
8 **June 12, 2002 or as of the effective date of an Order adopting the revised rates?**

9 **A.11** Unquestionably, whatever rate adjustments are ordered by the Commission following the
10 expedited hearing in this proceeding should be effective retroactive to June 12, 2002. Whether
11 the Transport rates which have been imposed by Qwest for the purported reason of complying
12 with the Phase II Order are violative of that Order or whether the rates resulted from latent
13 ambiguities in the Phase II Order, the result is the same. As Staff so correctly noted in its
14 Response, those rates have produced an “unexpected and unreasonable rate increase . . . which
15 was not intended by the Phase II Order.” Whatever was intended by the Phase II Order was
16 intended to be attained on June 12, 2002 – the effective date of the Order. Those “unexpected
17 and unreasonable” Transport rate increases identified by Staff have been unexpected and
18 unreasonable since June 12, 2002. They did not first become unexpected and unreasonable when
19 Staff filed its Response; neither will they first become unexpected and unreasonable upon
20 issuance by the Commission of an order at the conclusion of this expedited proceeding. As a
21 result of Qwest’s rendering of invoices containing these unexpected and unreasonable Transport
22 rate increases retroactive to June 12, 2002, there is no doubt that incorrect and unlawful rates
23 have been charged by Qwest since June 12, 2002. As described in my answer to Question No. 10
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1 above, the same is also true with respect to the rates being charged for multiplexing.
2 Immediately upon learning of Qwest's new and increased Transport rates through receipt of
3 those aforementioned invoices, including those containing retroactive charges, MTI deemed it
4 necessary to bring this matter to the Commission's attention on the record of these proceedings
5 through the filing of its applications to intervene and its motion for injunction. Staff's Response
6 reflects its concurrence that improper Transport rates have been charged since June 12, 2002. To
7 me, this is a simple question which calls for a simple answer. If improper rates have been
8 imposed since June 12, 2002, the only complete and proper remedy is to order the
9 implementation of proper rates to be effective that same date – June 12, 2002.
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11 **Q. 12 Does this complete your testimony?**

12 **A. 12** Yes it does.
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Michael Lee Hazel

Vice President, Network
Mountain Telecommunications, Inc.

Background

Mike Hazel joined MTI at the time of its founding and has been with the company since the beginning. Currently, Mike Hazel is Vice President, Network and manages network operations, including network deployment, operations and customer implementation. He is responsible for deployment and operation of the existing voice and data network including over 3,000 modems online with wholesale and collocated ISPs. His recent projects include completing migration from INP to LNP (first CLEC to complete in USW territories), deployment of ten rural collocations and negotiating the first Phase II, 4 -year Interconnect Agreement with the ILEC (Qwest).

Prior to joining MTI, Mike Hazel was responsible for integrating customer networks and applications into a cellular data network. His functions included Project Manager, WAN/LAN design and integration, application selection and optimization, internal and external support, presentation and training on CDPD, LAN, WAN and TCP/IP technologies. His prior primary responsibility was for selecting third-party hardware and software integrators and managing customer/vendor interaction. As part of this role, he was responsible for installation and support of gateways for legacy systems to interface with the CDPD network. The list of vendors included IBM, Motorola, AT&T, Novell, Microsoft, Lotus, SCO, PCSI, Sierra America, Cisco Systems and Bay Networks (Wellfleet). He was involved in the design, implementation, maintenance and troubleshooting of Local Area Networks and PCs. He also prepared existing networks for continuing maintenance contracts, including thorough documentation, debugging and stabilizing.

Mike Hazel has 20 years in the data and telecommunications field.

Experience

1994-1997 Bell Atlantic Mobile Systems

Systems Engineer

Integrated customer networks and applications with Bell Atlantic's Cellular Digital Packet Data (CDPD) Network. Functions included project management, WAN/LAN design and integration, application selection and optimization, internal and external support, presentation, and training on CDPD, LAN, WAN and TCP/IP technologies. Selected third-party hardware and software integrators and managed customer/vendor interaction. Installed and supported Gateways for legacy systems to interface with the CDPD network. The majority of CDPD hardware and software platforms implemented were first release or still in beta development. Vendors included IBM, Motorola, AT&T, Novell, Microsoft, Lotus, SCO, PCSI, Sierra Wireless, Cincinnati Microwave, Software Corporation of America, Cisco Systems and Bay Networks (Wellfleet). Supported several customers through the process of designing and integrating IP based, routed networks into their legacy systems, including SNA, IPX, X.25 and NetBIOS/NetBEUI based LANs and WANs

1994 Preferred Computer Care

Network Engineer

Designed, implemented, maintained and troubleshoot LANs and PCs. Prepared existing networks for continuing maintenance contracts, including thorough documentation, debugging and optimizing.

1992-1993 Offline Services

Self-Employed Consultant

Provided consulting services for small businesses to help them determine their hardware and software needs. Functions included network design and installation, programming and extensive troubleshooting.

1989-1993 Maricopa County

Operations Lead

Supervised several operators supporting a DPS8(GCOS3), IBM 3090(MVS/XA), VAX6000(VMS) cluster and numerous PCs networked on Netware 3.11. Users environments included VT100-220, OS/2 PCs and IBM3270 terminals. Maintained external transport including Fiber, T1, DDs and 3002 circuits. Provisioned TCP/IP, IPX/SPX, SDLC, LAPB and DEC Ethernet protocols. Also trained on Netview, VTAM, CICS and DCL.

1988-1989 Maricopa County

Communications Technician

Installed, maintained and repaired all aspects of network communication systems. Bench tested hardware such as modems, MUXs and terminal controllers. Configured terminal, communications and FNP equipment. Supported Synchronous, Asynchronous and BiSynchronous transports.

1983-1988 Maricopa County

Mainframe Operations

Operated H6680(GCOS3), DPS8(GCOS3) and DPS6(GCOS6) mainframe computers primarily in a batch environment with emphasis on communications and training of new operators. Performed periodic system saves, restores and recoveries.

1979-1981 U.S. Air Force

HQ Mainframe Operator

Operated two H6060 mainframe systems with emphasis on WWMCCS. Ensured timely throughput of nightly production runs, performance of nightly saves as well as periodic systems saves, restores and recoveries. Maintained, saved and established mainframe configurations.

**Education /
Certifications**

- Gateway College – VTAM Operations, REXX Programming, CICS Overview Operation, TXO/ISPF, MVS JCL, VAX DCL
- Phoenix College – COBOL programming
- USAF Technical Training – H6000 Mainframe Operations, PDP-11 and WW Operations
- AST Server Support
- Microsoft Product Specialist (13822)
- Novell CNE (#6217342), Novell CNA v3.11

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I have this day served the foregoing Direct Testimony of Michael
3 Lee Hazel on all parties of record in these proceedings by mailing a copy thereof, properly
4 addressed with first class postage prepaid to the following:

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Dated at Washington, D.C., this 25th day of April, 2003.


Michelle D. Diedrick

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